

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK

APR 10 2008

COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,

Appellee,

v.

MICHAEL CHRISTOPHER WALLISER,

Appellant.

)
)
) 2 CA-CR 2007-0155
) DEPARTMENT B
)

MEMORANDUM DECISION

) Not for Publication
) Rule 111, Rules of
) the Supreme Court
)
)
)

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20063101

Honorable Barbara Sattler, Judge Pro Tempore

AFFIRMED

Isabel G. Garcia, Pima County Legal Defender
By Stephan J. McCaffery

Tucson
Attorneys for Appellant

E C K E R S T R O M, Presiding Judge.

¶1 Appellant Michael Walliser was charged with second-degree burglary and theft of property with a value of \$1,000 or more but less than \$2,000. After a jury trial held in his absence, Walliser was convicted of second-degree burglary and theft of property with

a value of \$250 or more but less than \$1,000.¹ After a bench trial, the trial court found Walliser previously had been convicted of two felonies—aggravated assault and second-degree burglary—and sentenced him to an enhanced, presumptive prison term of 11.25 years for the burglary conviction and time served for the theft conviction. Counsel filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Walliser has not filed a supplemental brief.

¶2 Counsel has avowed that he finds no meritorious arguments to raise. He asks this court to review the entire record “for any error that might warrant relief,” arguing that, based on *Anders*, our review should not be limited to searching only for error that can be characterized as fundamental. Even assuming his interpretation of *Anders* and its progeny is correct, we find no error warranting relief. The state produced sufficient evidence to support the guilty verdicts on both charges. That is, when viewed in the light most favorable

¹In August 2006, when Walliser committed the offenses, A.R.S. § 13-1802(E) provided, in relevant part, that “[t]heft of property or services with a value of two hundred fifty dollars or more but less than one thousand dollars is a class 6 felony. Theft of any property or services valued at less than two hundred fifty dollars is a class 1 misdemeanor” The statute was amended in 2006 and now provides: “Theft of property or services with a value of one thousand dollars or more but less than two thousand dollars is a class 6 felony. Theft of any property or services valued at less than one thousand dollars is a class 1 misdemeanor” *See* 2006 Ariz. Sess. Laws, ch. 195, § 2. The amendments were effective September 21, 2006, ninety days after the June 22, 2006, close of the legislative session, *see* Ariz. Const. art. IV, pt. 1, § 1(3), and, therefore, after the date of these August 2006 offenses. The trial court correctly applied the version of the statute that existed when Walliser committed the offenses and rejected Walliser’s argument to the contrary. *See generally* A.R.S. § 1-246; *see also O’Brien v. Escher*, 204 Ariz. 459, ¶9, 65 P.3d 107, 110 (App. 2003).

to upholding the convictions, *see State v. Roque*, 213 Ariz. 193, ¶ 93, 141 P.3d 368, 393 (2006), the evidence was such that reasonable jurors could find beyond a reasonable doubt that Walliser had committed second-degree burglary and theft of property valued at \$250 or more but less than \$1,000. *See State v. Sharma*, 216 Ariz. 292, ¶ 7, 165 P.3d 693, 695 (App. 2007). The sentences were well within the statutory parameters, and we see no error with respect to the sentences themselves or the manner in which they were imposed. Nor have we found other, reversible error after reviewing the record before us.

¶3 The convictions and the sentences imposed are affirmed.

PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

PHILIP G. ESPINOSA, Judge

GARYE L. VÁSQUEZ, Judge